UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,380	09/29/2000	Peter Weber	5053-28301	1411

7590 06/10/2008
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ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
06/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/675,380
Filing Date: September 29, 2000
Appellant(s): WEBER ET AL.

MAILED

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GROUP 3600

Eric B. Meyertons
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/06/2008 appealing from the Office action

mailed 02/06/2008.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial

proceedings which will directly affect or be directly affected by or have a bearing on the

Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection

contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

NEW GROUND(S) OF REJECTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

Claim 95 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. Based on Supreme Court precedent (Diamond

v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978);

Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780, 787-

88 (1876)) and recent Federal Circuit decisions, 101 process must (1) be tied to another

statutory class (such as a particular apparatus) or (2) transform underlying subject

matter (such as article or materials) to a different state or thing (Gottschalk v. Benson,

409 U.S. 63, 70 (1972)).

Claim 95 recites "A method for developing a reinsurance administration system for

reinsurance contracts, the method comprising:

obtaining a reinsurance business process framework, wherein the reinsurance business process

framework comprises common functionality for one or more reinsurance business processes and wherein

the reinsurance business process framework comprises: one or more classes of objects designed for a

reinsurance administration system; a plurality of support processes; a plurality of hook methods, and a

designated order for executing steps in one or more application programs, wherein the steps comprise

pre-execution, data entry, data validation, pre- commission, commission, and post-commission;

creating one or more reinsurance business process subclasses from classes of objects of the reinsurance

business process framework, wherein the one or more reinsurance business process subclasses inherit

one or more of the hook methods of the reinsurance business process framework;

associating one or more of the support processes with one or more of the reinsurance business process

subclasses;

overriding at least one of the hook methods of the reinsurance business process framework to access at

least one stage in an execution of one of the reinsurance business processes and to identify a support

process to be executed, wherein overriding the at least one hook method comprises overriding a method

to be executed during data entry;

combining one or more subclasses to build one or more application programs for the reinsurance

administration system, wherein the order for executing steps in the one or more application programs is

the order for the reinsurance business process framework;

creating one or more reinsurance contract objects that represent one or more reinsurance contracts,

wherein creating a reinsurance contract object comprises:

identifying one or more inheritable contract objects from the class of objects to represent one or more

conditions of a reinsurance contract, wherein the reinsurance contract object is a parent of a section

object, and wherein the reinsurance contract comprises the transfer by a first insurer of at least a portion

of the risk associated with a primary insurance contract to a second insurer to provide protection to the

first insurer against the risk associated with the primary insurance contract;

creating an instance of the inheritable contract object to identify a condition object,

wherein the condition object is a child of the section object; and

configuring properties and methods of the condition object consistent with the

reinsurance contract; and

automatically generating reinsurance process objects as defined by the combined reinsurance business

process subclasses when one or more of the application programs are initiated; and

executing at least of the one or more application programs for the reinsurance administration system."

Claim 95 does not recite a particular apparatus, therefore is rejected under 35

U.S.C. 101, for reciting a non-statutory subject matter.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,694,506	LEBLANC ET AL.	2-2004
5,946,694	COPELAND ET AL.	8-1999
6,049,773	MCCORMACK ET AL.	4-2000

Pree, W., "Meta Patterns-A means for capturing the essential of reuasble object-

oriented design", C. Doppler Laboratory for Sortware Engineering, Johannes Kepler

University Linz, Australia.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 95 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent (Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780, 787-88 (1876)) and recent Federal Circuit decisions, 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as article or materials) to a different state or thing (Gottschalk v. Benson, 409 U.S. 63, 70 (1972)).

Claim 95 does not recite a particular apparatus, therefore is rejected under 35 U.S.C. 101, for reciting a non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 68, 69, 71-77, 79-87, 90-92, 95, 96, 98-104, and 106-114, 117-119 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeBlanc et al. (6,694,506) in view of Copeland et al. (5,946,694), Pree (Wolfgang Pree, Meta Patterns - A means for capturing the essentials of reusable object-oriented design, Proceedings, ECOOP'94, 1994 - info.uni-karlsruhe.de, accessed from google scholar, http://www.info.uni-karlsruhe.de/lehre/2004SS/swk/Papiere/ECOOP1994-Pree-Metapatterns.pdf), and McCormack et al. (6,049,773).

As per amended claim 68, LeBlanc discloses a computer readable medium comprising program instructions for developing a reinsurance administration system for reinsurance contracts, wherein the program instructions are computer-executable to implement a method of:

obtaining a framework, wherein the framework comprises one or more classes of objects, a set of predefined, interconnected classes provided to create a set of objects and additional miscellaneous routines, which are all directed to performing commonly encountered tasks in a particular environment (reads on "a plurality of support processes" as described on page 30 of Applicant's specification), and a plurality of hooks or a plurality of subclasses that inherit all of the functions of the base classes and alternatively the subclasses can override some or all of its inherited functions (reads on "hook methods" as described on page 30 of Applicant's specification) (Fig. 2, col. 1 line 54 to col. 2 line 6, col. 2 lines 33-48, col. 3 line 46 to col. 5 line 10, c01.6 lines 10-60,

col. 7 line 39 to col. 8 line 5) and a designated order for executing steps in one or more

application programs, wherein the steps comprise pre-execution, data entry, data

validation, pre-commission, commission and post-commission;

The amendment made to claim 68 repeats the same limitations of canceled claim

88 and 89. As explained in the previous office action, this method would be performed

the same regardless of whether the method had a specific type of framework support

process, support process, or reinsurance framework. Thus, this descriptive material will

not distinguish the claimed invention from the prior art in terms of patentability, see In re

Gulack, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983); In re Lowry, 32 F.3d

1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir.1994). For further guidance, note

MPEP § 2106, common situations involving nonfunctional descriptive material are: "a

process that differs from the prior art only with respect to nonfunctional descriptive

material that cannot alter how the process steps are to be performed to achieve the

utility of the invention." It is noted that these support processes appear to be a piece of

computer code. The support processes are never actually executed. Thus, the method

in claim 68, in particular the last limitation is performed the same regardless of which

support process is available, and thus the different types of support processes do not

patentably distinguish the claimed invention from the prior art.

creating one or more subclasses from the framework classes, wherein the one or

more subclasses inherit one or functions (reads on "hook methods") (col. 4 line 36 to

col. 5 line 10);

associating one or more of the classes provided to create a set of objects to

perform tasks with subclasses (col. 4 line 22 to col. 5 line 5 line 10); and

combining one or more subclasses to build one or more programs, wherein the

order for executing steps in the one or more application programs is the order for the

reinsurance business process framework (Abstract; col. 1 line 54 to col. 2 line 5 line 6,

col. 2 lines 33-67, col. 4 line 36 to col. 5 line 10).

creating one or more reinsurance contract objects that represent one or more

reinsurance contracts (Fig. 4, col. 2 lines 33-60, col. 3 line 46 to col. 4 line 21, col. 4

lines 36-47, col. 7 line 39 to col. 8 line 10, col. 9 lines 27-55), wherein creating a

reinsurance contract object comprises:

identifying one or more inheritable contract objects from the class of

objects to represent one or more conditions of a reinsurance contract (Fig. 4, col.

2 lines 33-60, col. 3\line 46 to col. 4 line 21, col. 4 lines 36-47, col. 7 line 39 to

col. 8 line 10, col. 9 lines 27-55), wherein the reinsurance contract object is a

parent of a section object (col. 3 line 46 to col. 4 line 21, col. 4 lines 36-62),

creating an instance of the inheritable contract object to identify a

condition object, wherein the condition object is a child of the section object (Fig.

4, col. 2 lines 33-60, col. 3 line 46 to col. 4 line 21, col. 4 lines 36-47, col. 7 line

39 to col. 8 line 10, col. 9 lines 27-55); and

configuring properties and methods of the condition object consistent with

the reinsurance contract (col. 2 lines 7-15, col. 4 lines 4-21, col. 6 lines 30-60,

col. 7 lines 39 to col. 8 lines 10, col. 8 lines 24-45).

As per the recitation of "overriding at least one of the hook methods of the reinsurance business process framework to access at least one stage in an execution of one of the reinsurance business processes and to identify a support process to be executed, wherein overriding the at least one hook method comprises overriding a method to be executed during data entry" LeBlanc discloses a subclass can override some or all of its inherited functions or may modify some or all of its inherited functions by defining a new function with the same form (col. 4 lines 44-47). LeBlanc discloses that frameworks contain predefined classes which can be used as base classes and a developer may accept and incorporate some of the objects into these base classes or he may modify or override objects or combinations of objects in these base classes to extend the framework and create customized solutions in particular areas of expertise (col. 4 line 64 to col. 5 line 5).

LeBlanc fails to expressly disclose the feature of automatically generating process objects as defined by the combined process subclasses when one or more of the application programs are initiated. It is noted that this step is typically the final step in using an object-oriented software system.

Copeland discloses a class of objects such as an insurance policy, wherein when using the application program, a user can change the beneficiary of the insurance policy, determine the insurance policy premium, and any Other similar functions needed in the administration of an insurance company, wherein these classes of objects are defined by classes and parent classes (col. 4 lines 15-44, col. 6 lines 6-42, col. 7 lines 28-49).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Copeland within the method of LeBlanc with the motivation of providing small, reusable sections of program code to reduce the costs and increase the speed of software development (Copeland; col. 1 lines 37-52).

LeBlanc and Copeland do not expressly disclose the concept of overriding a hook method in a framework to access at least one stage in an execution of one of the reinsurance business processes and to identify a support process to be executed. Pree discloses a framework using hook methods which represent the meta patters required to design frameworks consisting of single classes or groups of classes together with their interactions (page 4, section 4.1). Pree discloses subclass B1 overriding hook methods M20, wherein subclasses modify method implementations or add new methods (reads on "to access at least one stage in an execution of one of the reinsurance business processes and to identify a support process to be executed") (page 5 par. 2-3). A subclass that modifies method implementations or adds new methods must identify the method that is used and accesses a method that is used by the framework.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Pree within the method taught collectively by Leblanc and Copeland with the motivation of providing a flexible framework that requires minimal adaptation effort (Pree; page 6 par. 7).

LeBlanc, Copeland, and Pree fail to expressly disclose a system pertaining to reinsurance including "wherein the reinsurance contract comprises the transfer by a first

insurer of at least a portion of the risk associated with a primary insurance contract to a

second insurer to provide protection to the first insurer against the risk associated with

the primary insurance contract." McCormack discloses this form of reinsurance at col. 1,

lines 41-64. At the time the invention was made, it would have been obvious to one of

ordinary skill in the art to include the features of McCormack within the method taught

collectively by LeBlanc, Copeland, and Pree with the motivation of minimizing risk for

the first insurer through reinsurance (McCormack; col. 1, lines 41-64).

The amended claim 68 also recites executing at least of the one or more

application programs for the reinsurance administration system.

- The obviousness of modifying the teaching of LeBlanc to include
  executing at least of the one or more application programs for the
  reinsurance administration system (as taught by Copeland) is as
  addressed above and incorporated herein.

As per claims 69, LeBlanc discloses that a third property of object oriented

programming is inheritance which allows program developers to reuse pre-existing

programs. Inheritance allows a software developer to define classes and the objects,

which are later created from them as related through a class hierarchy. Specifically,

classes may be designated as subclasses of other base classes. A subclass "inherits"

and has access to all of the public functions of its base classes as though these

functions appeared in the subclass. Alternatively, a subclass can override some or all of

its inherited functions or may modify some or all of its inherited functions by defining a

new function with the same form (col. 4 lines 36-48). It is noted when the method allows

a subclass to override some of the inherited functions from the base class, the base

class is a form of abstract class.

As per claim 71, Pree discloses overriding the at least one hook method

comprises replacing the hook method with one or more new methods (page 4 section

4.1, page 5 par. 2-3).

As per claims 72-77, LeBlanc discloses using hooks and Pree discloses

overriding hook methods as discussed in claim 68. Copeland discloses that objects that

perform system-related functions necessary for every method request, wherein the

system- related activities include things like performing security checks, locking records,

etc. that need to be performed before the business object performs its method (col. 7

lines 28-49). It is respectfully submitted that while LeBlanc, Copeland, and Pree do not

disclose overriding every hook method as recited in claims 72-77, Copeland does

disclose that they can be used before an object performs its method and Pree discloses

that hook methods can be overridden. Further, the Examiner respectfully submits that it

is well known in the art that a hook method can be used at any location in a routine or

program and that they can be overridden. The motivation being for the

purpose of debugging or enhancing functionality.

As per claims 79-87, 90-91, LeBlanc discloses that JAVA includes a wealth of

frameworks intended to greatly enhance application software development on the

internet (col. 6 lines 12-29). Further, LeBlanc discloses that JAVA beans are the object

unit and are the tool which provide application developers with the framework for

reusable, embeddable modular software components (col. 6 lines 30-43). Copeland

discloses that objects that perform system-related functions necessary for every method

request, wherein the system-related activities include things like performing security

checks (claim 86), locking records, etc. that need to be performed before the business

object performs its method (col. 7 lines 28-49). The Examiner respectfully submits that

the processes and frameworks recited in claims 79-87, 90-91 are well known in the art

of object- oriented programming as disclosed by LeBlanc and Copeland. The motivation

being to provide application developers with the framework for reusable, embeddable

modular software components (col. 6 lines 30-43).

As per claim 92, LeBlanc discloses a memory medium and a transmission

medium (Internet) (Abstract, col. 5 line 10-29).

Claims 95-96, 98-104, 106-114 and 117-119 repeat claims 68-69, 71-77, 79-87

and 90-92 as a method rather than as a carrier medium comprising program

instructions, wherein the program instructions are computer-executable to implement a

method. The underlying steps of the method have been shown to be disclosed by the

collective teachings of LeBlanc and Copeland in the above rejections of claims 68-69,

71-77, 79-87 and 90-92. As such, these limitations are rejected for the same reasons

given above for claims 68-69, 71-77, 79-87 and 90-92, and incorporated herein.

(10) Response to Argument

In the Appeal Brief filed 6 February 2008, Appellant makes the following

argument:

The Examiner does not appear to provide any prior art reference disclosing a

framework that includes a designated order for executing steps in an application

program, the steps including pre-execution, data entry, data validation, pre-commission, commission, and post-commission.

Argument:

Examiner respectfully submits that, as explained in the rejection of claim 68 above, the method of claim 68 would be performed the same regardless of whether the method had a specific type of framework support process, support process, or reinsurance framework. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994). For further guidance, note MPEP § 2106, common situations involving nonfunctional descriptive material are: "a process that differs from the prior art only with respect to nonfunctional descriptive material that cannot alter how the process steps are to be performed to achieve the utility of the invention." It is noted that these support processes appear to be a piece of computer code. The support processes are never actually executed. Thus, the method in claim 68, in particular the last limitation is performed the same regardless of which support process is available, and thus the different types of support processes do not patentably distinguish the claimed invention from the prior art.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section **(9)** above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.
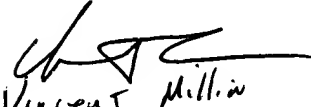
Respectfully submitted,

/Dilek B Cobanoglu/

Examiner, Art Unit 3626

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Conferees:

C. Luke Gilligan
SPE, Art Unit 3626

Vincent Millin
Appeals Practice Specialist

WYNN W COGGINS
TECHNOLOGY CENTER DIRECTOR